IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SEVENTEENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

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WRIT PETITION NO : 121 of 1996

Between:

G. Sateesh S/o. Basavaraju
Gandhichowk, Maktal (P), Mahaboobnagar District.

..... PETITIONER

AND

1 The Additional Labour Court-cum- Additional Industrial Tribunal, Hyderabad
2 The Divisional Manager, APSRTC, Ranga Reddy Division, City Bus Station, Hyderabad.
3 The Depot Manager, A.P.S.R.T.C., Tandur Depot.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order or direction or writ particularly, in the nature of certiorari and call for records from the Additional Labour Court-Cum-Additional Industrial Tribunal, Hyderabad. Quashing the award passed in Industrial Dispute No. 316/90, dated 30-9-94 on the file of the Additional Labour Court-Cum-Additional Industrial Tribunal, Hyderabad and consequently direct the Respondents to grant Back Wages, continuity of service and all other attendant benefits.

Counsel for the Petitioner:MR.V.VISWANATHAM

Counsel for the Respondent No.1 : G.P. for Labour

Counsel for the Respondent No.2 and 3:MR. K.HARINATH (SC FOR A.P.S.R.T.C.)

The Court made the following :

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ORDER:

Heard the learned counsel for respective parties.

2. The writ petition is directed against the award of the Labour Court, Hyderabad dated 30-9-1994 in I.D.No.316/90 to the extent of denying him monetary benefits, including back wages, other retrenchment benefits and continuity of service.

3. The petitioner, who entered the service of A.P.S.R.T.C., as a conductor on 12-1-1983, was alleged to have committed cash and ticketing irregularities on 17-2-1984. After a due process of enquiry on 28-3-1984, he was removed from service. Aggrieved he filed an I.D., under Section 2(A)2 of the Industrial Disputes Act,1947, six years later in the year 1990. The Labour Court found that no enquiry was held and no opportunity was afforded to the petitioner before inflicting on him the penalty of termination from service. However, as he had approached the Labour Court, with considerable delay, the Labour Court by the Award impugned herein set aside the order of termination of the petitioner from service and directed the respondents to reinstate him as a fresh candidate but without permitting him any continuity of service and back wages. The petitioner has since been reinstated into service, pursuant to the award of the Tribunal. His grievance is limited to the denial, by the Labour Court, of back wages, continuity of service and other monetary benefits.

4. Admittedly the petitioner had approached the Labour Court

for the relief more than 6 years after the date of his termination from service. On account of his unexplained delay in approaching the Labour Court, he was not entitled to the benefit of back wages. There is, however, no reason why the Labour Court directed, when the order of termination was patently illegal on account of not having been preceded by disciplinary enquiry, that the petitioner be denied the benefits of continuity of service and that he should be appointed as a fresh candidate.

4. On the analysis of the above, the award of the Labour Court dated 30-9-1994 in I.D.NO.316 of 1996 is modified as under:

The order of termination of the service of the petitioner is set aside. The petitioner shall be entitled to be reinstated into service from the date of publication of the Award of the Labour Court i.e., w.e.f., 1-12-1994, i.e., the date of issue of G.O.R.T.NO.703. The petitioner shall also be entitled to continuity of service for the period during which he was out of service, on account of the illegal termination, but without the benefit of back wages or any other monetary benefits for the said period. He would also not be entitled for any incremental benefits for the period he was out of service during the period of his termination.

5.The writ petition is disposed of with the above directions. No order as to costs.

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17-08-2004

sh/mrk

To

1 The Additional Labour Court-cum- Additional Industrial Tribunal, Hyderabad
2 The Divisional Manager, APSRTC, Ranga Reddy Division, City Bus Station, Hyderabad.
3 The Depot Manager, A.P.S.R.T.C., Tandur Depot.

4. 2CCs to the G.P. for Labour, High Court Buildings, High Court of A.P., Hyderabad (out).

5. 2CD copies

THE HON'BLE MR JUSTICE GODA RAGHURAM

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Dated: 17-08-2004